

ROPES & GRAY
225 FRANKLIN STREET
BOSTON 02110

AREA CODE 617 423-6100

NO. 1300000
Date JUL 14 1976
Fee \$ 60-
ADDRESS "ROPGRALOR"

ICC Washington, D. C.

July 12, 1976

Interstate Commerce Commission
Washington, D. C. 20423

RECORDATION NO. 8394, A, B, C + D
JUL 14 1976 - 3 25 PM

Attention: Mrs. Mildred Lee

Re: Pickens Railroad Company

INTERSTATE COMMERCE COMMISSION

Dear Mrs. Lee:

As you requested in our telephone conversation today,
I enclose a check in payment of filing fees relating to
documents numbered 8394, 8394a, 8394b, 8394c and 8394d.
Your cooperation in this matter is greatly appreciated.

Very truly yours,

William F. McCarthy
William F. McCarthy

WFM:sf
Enclosure

INTERSTATE
COMMERCE COMMISSION
RECEIVED

CA JUL 14 1976

ADMINISTRATIVE SERVICES
MAIL UNIT

RECORDATION NO. 8394-C Filed & Recorded

JUL 1 1976 9 40 AM

INTERSTATE COMMERCE COMMISSION

GENERAL DISCOUNT CORPORATION

COMMERCIAL FINANCIAL

RECORDATION NO. 8394 Filed & Rec

JUL 1 1976 9 40 AM

INTERSTATE COMMERCE COMMISSION

JUL 1 1976 9 40 AM

FEE & OPERATION BR.

100 STATE STREET

BOSTON, MASSACHUSETTS 02109

RECORDATION NO. 8394-A Filed & Recorded

JUL 1 1976 9 40 AM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8394-A Filed & Recorded

JUL 1 1976 9 40 AM

INTERSTATE COMMERCE COMMISSION

June 29, 1976

RECORDATION NO. 8394-B Filed & Recorded

JUL 1 1976 9 40 AM

INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
Washington, D. C. 20423

Fee \$ 50

CC Washington, D. C

Re: Pickens Railroad Company

Dear Sir:

1. Pursuant to Title 49, Code of Federal Regulations, Part 1116, General Discount Corporation encloses for filing the original and two certified copies of the following documents:

- Counterpart*
Michael J. Curry
- (a) Agreement dated June 30, 1976 between Pickens Railroad Company ("Pickens"), National Railway Utilization Corporation ("NRUC"), Metal Fabricators, Inc. ("MFI") and General Discount Corporation ("GDC"); 8394
 - (b) *Assignment* Agreement dated as of June 30, 1976 between North Carolina National Bank ("NCNB") and GDC under which NCNB assigned to GDC its rights as Vendor under a certain Conditional Sale Agreement between MFI, NRUC and Pickens dated as of December 1, 1974 (the "Conditional Sale Agreement"); 8394-A
 - (c) Amendment Agreement dated as of June 30, 1976 between Pickens and GDC as Vendor under the Conditional Sale Agreement amending certain provisions of that Conditional Sale Agreement; 8394-B
 - (d) Guaranty dated as of June 30, 1976 by which NRUC guarantees all obligations of Pickens to GDC; and 8394-C

June 29, 1976

- (e) Termination of Security Interest by First Security State Bank relating to Security Agreement between Pickens and said Bank as Trustee for IteL Leasing International, Inc. dated March 15, 1975. \$394-*W*

2. Information concerning these transactions required to be included in this letter of transmittal pursuant to 49 C.F.R. Section 1116.4 is as follows:

(a) Names and Addresses of Parties to the Transaction described in 1(a) above:

- (1) Conditional Vendee: Pickens Railroad Company
402 Cedar Rock Street
Pickens, South Carolina 29671
- (2) Prospective Conditional Vendor: General Discount Corporation
100 State Street
Boston, Mass. 02109
- (3) Builder/Guarantor: National Railway Utilization Corporation
P. O. Box 1946
Greenville, South Carolina 29602
- (4) Conditional Vendor/Guarantor: Metal Fabricators, Inc.
P. O. Box 1946
Greenville, South Carolina 29602

(b) Names and Addresses of Parties to the Transaction described in 1(b) above:

- (1) Assignor: North Carolina National Bank
One NCNB Plaza
Charlotte, North Carolina
- (2) Assignee: General Discount Corporation
100 State Street
Boston, Mass. 02109

(c) Names and Addresses of Parties to the Transaction described in 1(c) above:

June 29, 1976

- (1) Conditional
Vendee: Pickens Railroad Company
402 Cedar Rock Street
P. O. Box 216
Pickens, South Carolina 29671
- (2) Conditional
Vendor: General Discount Cor-
poration
100 State Street
Boston, Mass. 02109
- (d) Names and Addresses of Parties to the
Transactions described in 1(d) above:
- (1) Guarantor: National Railway Utiliza-
tion Corporation
P. O. Box 1946
Greenville, South Carolina 29602
- (2) Obligee: General Discount Cor-
poration
100 State Street
Boston, Mass. 02109
- (e) Names and Addresses of Parties to the
Transaction described in 1(e) above:
- (1) Secured Party: First Security State Bank
as Trustee for IteL
Leasing International, Inc.
P. O. Box 1289
Salt Lake City, Utah 84110
- (2) Debtor: Pickens Railroad Company
402 Cedar Rock Street
P. O. Box 216
Pickens, South Carolina 29671
- (f) General Description of the Equipment
Covered by the Agreements described in
1(a) through 1(e) above:
The equipment is seventy-two (72) seventy-
ton railroad freight cars bearing (i) the
consecutive serial numbers 55128 through
55199, inclusive, as designated by Pickens
Railroad Company, and (ii) the marking
"General Discount Corporation, Conditional
Vendor.";

Secretary -- 4

June 29, 1976

(g) The following prior recordings are related to the documents described in 1. above and enclosed:

- (1) Conditional Sale Agreement, Recordation No. 7737 at 10:15 a.m. on December 10, 1974;
- (2) Agreement and Assignment between MFI and NCNB, Recordation No. 7737-A at 10:15 a.m. on December 10, 1974; and
- (3) Security Agreement between Pickens and First Security State Bank as Trustee for IteI Leasing International, Inc., Recordation No. 7945-B at 3:25 p.m. on June 5, 1975.

3. The original of each of the documents enclosed should be returned to:

William F. McCarthy
Ropes & Gray
225 Franklin Street
Boston, Mass. 02110

Having knowledge of the matters set forth herein,



Lawrence R. Seder
President
General Discount Corporation

Interstate Commerce Commission

OFFICE OF THE SECRETARY
Washington, D.C. 20423

7/12/76

William F. McCarthy
Ropes & Gray
225 Franklin Street
Boston, Mass. 02110

Dear Sir:

The enclosed documents were recorded pursuant to the provisions of
Section 20c of the Interstate Commerce Act, 49 U.S.C. 20c, on 7/1/76
at 9:40am , and assigned recordation numbers as follows:

8394

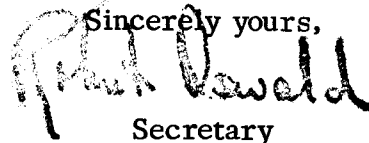
8394-A

8394-B

8394-C

8394-D

Sincerely yours,



Secretary

Encl.

SERS Form 30-A
(1967)

JUL 1 1976 9 40 AM

INTERSTATE COMMERCE COMMISSION

Agreement between Metropolitan
Inc. ("MFI"), National Railway Utiliza-
tion Corporation ("NRUC") and Pickens
Railroad Company ("Pickens"), each a
South Carolina corporation with its
principal place of business at P.O.
1946, Greenville, South Carolina 29602
and General Discount Corporation, a Massa-
chusetts corporation with its principal
place of business at 100 State Street,
Boston, Massachusetts ("GDC") dated as
of June 30, 1976

Witnesseth

MFI is the vendor under a certain Conditional Sale Agree-
ment between itself, NRUC as Builder and Pickens dated as of
December 1, 1974, a true copy of which has been provided to GDC
(the "Conditional Sale Agreement"). Under the terms of the Con-
ditional Sale Agreement, NRUC built and sold to MFI for resale
to Pickens certain railroad equipment, to wit, seventy-two (72)
seventy-ton, fifty-foot freight cars (the "Equipment"). The
Equipment has been delivered to Pickens, which has assigned to
the units thereof the serial numbers 55128 through 55199 in-
clusive; the Equipment is currently in service on the lines
of railroads earning per diem as applicable. Title to the
Equipment is, under the Conditional Sale Agreement, to re-
main in MFI as vendor until Pickens completes all payments
under the Conditional Sale Agreement, at which time title
is to vest in Pickens. Pickens has heretofore made payments
aggregating \$506,016.00 under the Conditional Sale Agreement,
and remains obligated to make further payments aggregating
\$1,301,184.00. Under Article 4 of the Conditional Sale
Agreement, Pickens may prepay the Conditional Sale Indebted-
ness, along with unpaid interest theretofore accrued, without
penalty at any time.

MFI, by a certain Agreement and Assignment dated as of December 1, 1974 (the "Assignment"), assigned to North Carolina National Bank ("NCNB") all its right, title and interest to (i) the Equipment and (ii) the Conditional Sale Agreement and the rights of MFI as Vendor thereunder. The proceeds of the Assignment were used by MFI to purchase the Equipment from NRUC. MFI simultaneously entered a Guaranty Agreement dated as of December 1, 1974, with NCNB by which MFI unconditionally guaranteed to NCNB full and punctual payment and performance by Pickens of all of its obligations under the Conditional Sale Agreement (the "Guaranty Agreement").

MFI, NRUC and Pickens have requested that GDC acquire from NCNB all of its rights under the Assignment; they have further proposed that subsequent to such acquisition the then parties thereto make certain amendments to the Conditional Sale Agreement which will be incorporated in a certain Amendment Agreement (the "Amendment Agreement") of even date and that GDC and Pickens enter a revolving credit agreement (the "Revolving Credit Agreement") under which GDC will be obligated to lend up to \$320,000 secured by a security interest in the Equipment. NRUC will unconditionally guarantee payment of the obligations of Pickens under the Conditional Sale Agreement, as amended, and the Revolving Credit Agreement under a certain Guaranty dated simultaneously with the other transactions described above (the "NRUC Guaranty").

The Equipment is also subject to a security interest granted by Pickens to First Security State Bank, as Trustee for Itel Leasing International, Inc. dated March 15, 1975 (the "Itel Agreement"). This security interest will be released by First Security State Bank in connection with the execution and delivery of the other agreements described above.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the parties hereto hereby agree as follows:

Section 1. Representations and Warranties. Each of NRUC, MFI and Pickens represent and warrant as follows:

A. Incorporation, etc. Each of NRUC, MFI and Pickens is a corporation duly organized, validly existing and in good standing under the laws of the state of South Carolina, has the requisite corporate power and authority to own its properties and to carry on its business as now being conducted and to enter into, execute and perform its respective obligations under this Agreement, has duly authorized the execution, delivery and performance of this Agreement, and is duly qualified as a foreign corporation in each jurisdiction wherein the character of the property owned or the nature of the activities conducted by each of NRUC, MFI or Pickens makes such qualification necessary.

B. Valid Obligation. Each of NRUC, MFI and Pickens have taken all necessary corporate proceedings to authorize the execution, delivery and performance of this Agreement, and said Agreement constitutes the legal, valid and binding obligation of each, enforceable in accordance with its terms, and the execution, delivery and performance of said Agreement by each of NRUC, MFI and Pickens will not violate any provision of law, any order of any court or other agency of government, or any indenture, agreement or other instrument to which either of NRUC, MFI or Pickens is a party, or by or under which either of them or the property of either of them is bound, or be in conflict with, result in a breach of, or constitute (with due notice and/or lapse of time) a default

under such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon the property or assets of either NRUC, MFI or Pickens.

C. Financial Statements. NRUC and Pickens have delivered to GDC copies of (i) the consolidated balance sheet of NRUC and subsidiary as of May 31, 1975 and the related consolidated statements of earnings and deficit and of changes in financial position for the year then ended, with the report thereon of S. D. Leidesdorf & Co., certified public accountants, (ii) the balance sheet of Pickens as at May 31, 1975 and 1974 and the related statement of earnings and retained earnings and of changes in financial position for each of said fiscal years, with the report thereon of S. D. Leidesdorf & Co., certified public accounts, (iii) the unaudited consolidated balance sheet as at November 30, 1975 and consolidated statement of earnings and deficits for the period from June 1, 1975 to November 30, 1975 of NRUC, and (iv) the unaudited balance sheet as at November 30, 1975 and the statement of earnings and retained earnings for the period from June 1, 1975 to November 30, 1975 of Pickens. All such financial statements (including the related schedules and notes) fairly present the financial condition of either NRUC or Pickens as of the respective dates of said balance sheets and the results of operations for the respective periods covered by said statements of earnings and deficit or retained earnings, and changes in financial position, and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved. Neither NRUC, MFI or Pickens has knowledge of any liabilities, contingent or otherwise, which are material in the aggregate,

of either NRUC or Pickens as at May 31, 1975 or November 30, 1975, not reflected in said balance sheet as of said date. Since May 31, 1975 there has not been any material adverse change in the business, operations or principal properties of NRUC or Pickens.

D. Certification. Pickens is a common carrier by railroad subject to the provisions of Part I of the Interstate Commerce Act, and as such is entitled to collect per diem, including incentive per diem, pursuant to that Part and such rules and regulations as are prescribed thereunder by the Interstate Commerce Commission. No proceedings are pending, or, so far as is known to any officer of either NRUC, MFI or Pickens, threatened, to alter, amend, modify, suspend or revoke Pickens status as a common carrier by railroad.

E. Title, etc. Pickens has good and marketable title to the Equipment, which is free and clear from any liens or encumbrances, other than (i) the interest of MFI as the Vendor under the Conditional Sale Agreement, which has been assigned by MFI to NCNB, and (ii) a security interest granted by Pickens to First Security State Bank as Trustee for Itel Leasing International under a certain security agreement dated as of March 15, 1975. Neither NRUC, MFI nor Pickens is party to any security or other agreement which grants or which purports to grant a security interest in the Equipment or the rights of either NRUC, MFI or Pickens under the Conditional Sale Agreement, except for (i) the assignment of the interest of MFI as Vendor under the Conditional Sale Agreement to NCNB under the Assignment and (ii) the security interest granted by Pickens under the Itel Agreement. Each of the Conditional Sale Agreement and the Assignment has been duly recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. § 20c and such recordings remain in full force and effect.

F. Litigation. There is no action, suit or proceeding (whether or not purportedly on its behalf) pending or threatened against or affecting either NRUC, MFI or Pickens or any of the properties of any of them, in any court or before or by any governmental body or any arbitrator, which, if adversely determined will materially impair the ability of any of NRUC, MFI or Pickens to perform its obligations under this Agreement or which might, individually or in the aggregate with other such actions, suits or proceedings, materially adversely affect the business, operations, affairs, properties or condition of either NRUC, MFI or Pickens or materially impair the right to any of them to carry on its business substantially as now conducted. There is no default by either NRUC, MFI or Pickens under any applicable order, writ, injunction, decree, determination or award of any court, governmental body or arbitrator. For purposes of this paragraph, the term "governmental body" includes any federal, state, municipal or other governmental or inter-governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign; and the term "order" includes any judgment, order, writ, injunction, award, determination, direction, decree or demand.

G. Governmental Approvals, etc. No consent, approval or authorization of, or registration, declaration or filing with, any governmental authority, federal or state including without limitation approval by the Interstate Commerce Commission under § 20a of the Interstate Commerce Act of the United States, is required for the valid execution, delivery and performance of this Agreement, the Conditional Sale Agreement, the Amendment Agreement, the assignment of the rights of NCNB under the Assignment to GDC, the Guaranty Agreement, the Revolving Credit Agreement and/or the NRUC Guaranty by the respective parties thereto.

H. Copies of Documents. GDC has been furnished by MFI, NRUC and Pickens with the original copies of the Conditional Sale Agreement, the Assignment, the Guaranty Agreement, and the Itel Agreement.

I. Valid Obligations, etc.

(1) MFI had on the date thereof and continues to have the requisite corporate power and authority to enter into, execute and perform its obligations under the Conditional Sale Agreement, the Assignment and the Guaranty Agreement and has taken all necessary corporate proceedings to authorize the execution, delivery and performance of said Agreements, and each constitutes the legal, valid and binding obligation of MFI, enforceable in accordance with its terms. The execution, delivery and performance of said Agreements by MFI has not heretofore and will not violate any provision of law, any order of any court or other agency of government, or any indenture, agreement or other instrument to which MFI is a party, or by or under which it or its property is bound, or be in conflict with, result in a breach of, or constitute (with due notice and/or lapse of time) a default under such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon the property or assets of MFI.

(2) NRUC had on the date thereof and continues to have the requisite corporate power and authority to enter into, execute and perform its obligations under the Conditional Sale Agreement, has taken all necessary corporate proceedings to authorize the execution, delivery and performance of said Agreement, and said Agreement constitutes the legal, valid and binding obligation of NRUC, enforceable in accordance with its terms. The execution, delivery and performance of

said Agreement by NRUC has not heretofore and will not violate any provision of law, any order of any court or other agency of government, or any indenture, agreement or other instrument to which NRUC is a party, or by or under which it or its property is bound, or be in conflict with, result in a breach of, or constitute (with due notice and/or lapse of time) a default under such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon the property or assets of NRUC.

(3) Pickens had on the date thereof and continues to have the requisite corporate power and authority to enter into, execute and perform its obligations under the Conditional Sale Agreement and has taken all necessary corporate proceedings to authorize the execution, delivery and performance of said Agreement, and said Agreement constitutes the legal, valid and binding obligation of Pickens, enforceable in accordance with its terms. The execution, delivery and performance of said Agreement by Pickens has not heretofore and will not violate any provision of law, any order of any court or other agency of government, or any indenture, agreement or other instrument to which Pickens is a party, or by or under which it or its property is bound, or be in conflict with, result in a breach of, or constitute (with due notice and/or lapse of time) a default under such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon the property or assets of Pickens.

Section 2. Assignment and Grant of Security Interest. In consideration of the undertakings by GDC set forth in Section 3 hereof, each of MFI, NRUC and Pickens hereby agrees with GDC as follows:

A. Each of NRUC, MFI and Pickens hereby confirms to GDC the validity and effectiveness of the Conditional Sale Agreement, the Assignment and the Guaranty Agreement and consents to the acquisition by GDC of the rights of NCNB under the Assignment and the Guaranty Agreement. MFI and NRUC each hereby (i) agree and consent to the amendments to the Conditional Sale Agreement as set forth in the Amendment Agreement and (ii) agree that upon acquisition of the rights of NCNB by GDC under the Guaranty Agreement references in said Guaranty Agreement to the "Bank" shall be deemed a reference to "GDC".

B. MFI hereby confirms the Assignment to GDC of all its right, title and interest in and to the Conditional Sale Agreement, including, without limitation, all Equipment delivered thereunder and all money and claims for money or otherwise, which it may have under such Conditional Sale Agreement. Notwithstanding the assignment to GDC of the rights of MFI under the Conditional Sale Agreement, GDC shall incur no obligation or liability under said Conditional Sale Agreement by reason of or arising out of such assignment, and its rights and obligations shall be those of the Assignee under the Assignment. MFI further confirms that all applicable sales and/or use taxes on the Equipment have heretofore been paid and agrees to indemnify and hold GDC harmless for all amounts in respect of such sales and/or use taxes.

C. Notwithstanding any other provision of this Agreement, NRUC shall remain liable in respect of all of its obligations under the Conditional Sale Agreement (as amended by the Amendment Agreement), including without limitation those set forth in Articles 10 and 16 thereof.

D. Simultaneously herewith, Pickens is (i) entering the Revolving Credit Agreement with GDC under which Pickens will

grant to GDC a security interest in the Equipment, second only to the security interest created by the Conditional Sale Agreement, to secure all obligations of Pickens under said Revolving Credit Agreement and otherwise and (ii) entering the Amendment Agreement with GDC as Vendor under the Conditional Sale Agreement. With respect to its rights under the Conditional Sale Agreement, Pickens hereby confirms to GDC the following:

(a) Each unit of the Equipment, on the date of its delivery to Pickens, conformed in design, quality and component parts to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new equipment and to all standards recommended as being applicable to the Equipment. As of the date hereof, each unit of said Equipment continues to conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications currently applicable to such Equipment. Pickens hereby waives any and all claims which it now has or may have in the future against GDC that the Equipment failed to comply with any warranty, express or implied.

(b) Each unit of Equipment has been delivered to Pickens in accordance with the provisions of Article 3 of the Conditional Sale Agreement and was settled for prior to April 1, 1975. Pickens has heretofore executed and delivered to MFI Certificates of Acceptance covering every unit of the Equipment, true copies of which have been furnished to GDC. As of the date hereof, the markings of every unit of the Equipment as required by Article 7 of the Conditional Sale Agreement have been change to read "General Discount Corporation Conditional Vendor".

E. Simultaneously herewith, NRUC will execute and deliver to GDC its absolute and unconditional guaranty of all obligations of Pickens to GDC (being the NRUC Guaranty referred to in the preamble to this Agreement).

Section 3. Undertakings by GDC. In consideration of the covenants and agreements set forth and contemplated by Section 2 hereof, and in reliance upon the representations and warranties set forth in Section 1 hereof, GDC hereby agrees with MFI, NRUC and Pickens as follows:

A. Simultaneously herewith, GDC shall acquire from NCNB all its interest under the Assignment and Guaranty Agreement and shall enter into the Amendment Agreement.

B. Simultaneously herewith, GDC will enter the Revolving Credit Agreement.

Section 4. Conditions Precedent to Closing. The execution and delivery of this Agreement and the completion of the transactions contemplated thereby shall be subject to the following conditions:

A. Proceedings and Instruments. All proceedings and instruments relating to the making of this Agreement, the Amendment Agreement, the transfer to GDC of NCNB's rights under the Assignment, and the Guaranty Agreement and the NRUC Guaranty shall be satisfactory to GDC and its special counsel, Messrs. Ropes & Gray. GDC shall have received copies of all such documents or other evidence as they may reasonably request in order to establish the consummation of such transactions, the taking of all corporate proceedings in connection therewith and compliance with the conditions set forth in this Section 3, in form (as to certification and otherwise) and substance satisfactory to GDC and its said special counsel.

B. Releases. NCNB and First Security State Bank as Trustee under the Itel Agreement shall execute and deliver

at said Closing, assignments, bills of sale and/or releases with respect to their respective interests in the Equipment and/or the Conditional Sale Agreement in form and substance satisfactory to GDC and its said special counsel.

C. Opinion of General Counsel to the Assignors. GDC shall have received from Messrs. Wyche, Burgess, Freeman & Parkam, General Counsel to the Assignors, their opinion, in scope, form and substance satisfactory to GDC and its special counsel, as to

(1) the due incorporation, existence and good standing of each of NRUC, MFI and Pickens and the corporate power and authority of each to enter those agreements, including this Agreement, the Conditional Sale Agreement, the Amendment Agreement, the Assignment, the Guaranty Agreement, the Revolving Credit Agreement and the NRUC Guaranty, to which it is a party, and to carry out the transactions contemplated in each instance;

(2) the due authorization, execution and delivery by each of NRUC, MFI and/or Pickens of this Agreement, the Conditional Sale Agreement, the Amendment Agreement, the Assignment, the Guaranty Agreement, the Revolving Credit Agreement and the Guaranty and the legality, validity, binding effect and enforceability of each of said Agreements, in accordance with their respective terms;

(3) the due qualification and good standing of each of NRUC, MFI and Pickens in each jurisdiction wherein the character of the properties owned or held under lease by it or the nature of the business transacted by it makes such qualification necessary and its authority in such jurisdictions to own or hold under lease the properties it purports to own or hold under lease and to transact the business

it transacts on the date hereof, except in jurisdictions in which failure to so qualify has no material adverse effect on the conduct of the business of the NRUC, MFI or Pickens;

(4) the absence of any requirement for any consent, approval or authorization of, or registration, declaration or filing with, any governmental authority, federal or state, of the United States for the valid execution, delivery and performance of this Agreement, the Conditional Sale Agreement, the Amendment Agreement, the Assignment, the transfer by NCNB to GDC of its rights under the Assignment and the Guaranty Agreement, the Guaranty Agreement itself, the Revolving Credit Agreement and the Guaranty by the respective parties thereto;

(5) GDC, following consummation of the transactions contemplated by this Agreement, shall have valid and existing first lien and security interest in the Equipment free and clear of all liens, charges and encumbrances of others;

(6) Pickens being a common carrier by railroad and said counsel having no knowledge of any proceedings pending or threatened to alter, amend, modify, suspend or revoke such status in whole or in part;

(7) the accuracy of the representations and warranties set forth in Sections 1F and 1H (to the best knowledge of such counsel);

(8) this Agreement, the Conditional Sale Agreement, the Amendment Agreement, the transfer of NCNB's rights under the Assignment and Guaranty Agreement and the release of the security interest created by the Itel Agreement and such other documents as may be designated by GDC or its special counsel having been duly filed for recording in accordance with the provisions of § 20c of the Interstate Commerce Act; the

absence of any requirement for refiling said documents or recording said documents or notices thereof in any other place within the United States in order to perfect and preserve the validity and priority of the security interest of GDC in the Equipment; and no filing or recording of any other instrument being necessary or advisable to perfect and preserve such security interest; and

(9) such other matters incident to the transactions hereby contemplated as GDC may reasonably request.

E. Opinion of Special I.C.C. Counsel to MFI, NRUC and Pickens. GDC shall have received from Andrew P. Goldstein, Esq., Special I.C.C. Counsel to MFI, NRUC and Pickens, his opinion in scope, form and substance satisfactory to GDC and its special counsel to the effect that

(i) each of the following instruments:

- (a) this Agreement;
- (b) the Amendment Agreement;
- (c) the transfer of NCNB's rights under the Assignment and Guaranty Agreement;
- (d) the NRUC Guaranty;
- (e) the Revolving Credit Agreement;
- (f) the release of the security interest arising under the Itel Agreement; and
- (g) such other instruments as GDC or its special counsel may direct,

to the extent required by statute, rule or regulation is in due form for filing under § 20 of the Interstate Commerce Act (which term, as used in this subsection, includes the pertinent regulations promulgated thereunder by the Interstate Commerce Commission) in accordance with the provisions of said Section, and each of the instruments described above has been duly filed with the Interstate Commerce Commission for recording under said Act;

(2) when the instruments described in the foregoing Clause (1) have been duly filed with the Interstate Commerce Commission in accordance with the Interstate Commerce Act, the Equipment will be free and clear of all liens, charges and encumbrances, except the first and paramount security interest of GDC under the Conditional Sale Agreement, as amended, and the second security interest of GDC under the Revolving Credit Agreement.

(3) Pickens is a common carrier by railroad and it has the authority to collect incentive per diem charges pursuant to such rules or regulations as may be prescribed by the Interstate Commerce Commission, and

(4) to the same effect as set forth in paragraph 1G above.

F. Certificate. GDC shall have received from S. D. Leidesdorf & Co., certified public accountants, its certificate, in form and substance satisfactory to GDC and its special counsel, with respect to the existence of the Equipment.

Section 5. Massachusetts Contract. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, as of the day and year first written above.

PICKENS RAILROAD COMPANY

GENERAL DISCOUNT CORPORATION

By

[Signature]
Attest: *[Signature]*
METAL FABRICATORS, INC. *[Signature]*

By

[Signature] *[Signature]* Pres.

By

[Signature]
NATIONAL RAILWAY UTILIZATION CORPORATION

Attest:

[Signature]
[Signature]

By

[Signature]
Attest: *[Signature]* 15-
[Signature]


ACKNOWLEDGMENTS

Suffolk, ss.

On this 30th day of June, 1976, before me personally appeared John A. Muir, to me personally known, who, being by me duly sworn, says that he is president of Metal Fabricators, Inc. and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said John A. Muir acknowledged said instrument was the free act and deed of said corporation.


Notary Public

On this 30th day of June, 1976, before me personally appeared John A. Mariscotti, to me personally known, who, being by me duly sworn, says that he is Executive Vice-President of National Railway Utilization Corporation, a South Carolina corporation, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said John A. Mariscotti acknowledged said instrument was the free act and deed of said corporation.


Notary Public
ELISA M. LOPEZ, Notary Public
My Commission expires Nov. 22, 1979

ACKNOWLEDGMENTS

Suffolk, ss.

On this 30th day of June, 1976, before me appeared Lawrence R. Seder, to me personally known, who, being by me duly sworn, did say that he is president of General Discount Corporation and the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Lawrence R. Seder acknowledged said instrument to be the free act and deed of said corporation.

Elisa M. Lopez
Notary Public

On this 30th day of June, 1976, before me appeared John A. Mariscotti, to me personally known, who, being by me duly sworn, did say that he is Vice-President of Pickens Railroad Company, a South Carolina corporation, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said John A. Mariscotti acknowledged said instrument to be the free act and deed of said corporation.

Elisa M. Lopez
Notary Public
ELISA M. LOPEZ, Notary Public
My Commission expires Nov. 22, 1978